

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

YESENIA RIVERA GABRIEL,

Petitioner,

v.

ANTHONY JAMES LAVISON,

Respondent.

CASE NO. 2:22-cv-00006-TL

ORDER MODIFYING PROVISIONAL  
REMEDIES

On January 31, 2022, the Court entered an Order Modifying and Extending Temporary Restraining Order (Dkt. No. 20), which in turn modified and extended the Court's previous Order on Petitioner's Motion for *Ex Parte* Immediate Temporary Restraining Order and Order to Show Cause (Dkt. No. 15). Provisional remedies are authorized under the Hague Convention on the Civil Aspects of International Child Abduction (the "Convention") and its implementing federal statute "as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition." 22 U.S.C. § 9004(a).

In summary, the Court's January 31 Order included the following provisional remedies:

- 1 • Respondent was prohibited from removing the child or allowing the child to be
- 2 removed by a third party from this Court's jurisdiction for the pendency of this action.
- 3 • Respondent was required to initiate a video chat session between Petitioner and the
- 4 child every day at 6:00 P.M. PST, which was to last for no less than one (1) hour each
- 5 day for the pendency of this action.
- 6 • Petitioner's request for Respondent to post a preliminary security bond was denied.
- 7 • Respondent was allowed two (2) weeks in which to secure legal representation, and
- 8 the Parties were ordered to prepare and file a joint proposed scheduling order.

9 Dkt. No. 20. This case then proceeded on an expedited basis to an evidentiary hearing on the  
10 merits of the underlying petition, which was held on March 29, 2022.

11 Upon consideration of the evidence entered during the hearing, and reviewing the record  
12 in this case, the Court finds that Petitioner has not had physical access to her son, J.E.L.R., since  
13 his removal from Sonora, Mexico, by Respondent on July 9, 2021. Respondent has maintained  
14 physical custody of J.E.L.R. in the United States, primarily in Washington state, since that time.  
15 Except for a short visit to Washington in September 2021—during which Respondent refused to  
16 grant physical access to or disclose the location of J.E.L.R.—Petitioner has been physically  
17 located in Sonora, Mexico, where she resides.

18 The Court's January 31, 2022, Order (Dkt. No. 20) requiring Respondent to provide  
19 video chat access between Petitioner and J.E.L.R. was appropriate for protecting the well-being  
20 of the child during the pendency of this action when considering the geographical distance  
21 between the Parties. Since Petitioner has travelled to Washington to attend the March 29, 2022,  
22 hearing and given the Court's preliminary ruling granting the Petition for return of the child, the  
23 Court concludes that custody of J.E.L.R. shall be transferred to Petitioner to arrange for his  
24 return to Mexico.

1 The Court therefore modifies its prior Order (Dkt. No. 20) and hereby ORDERS that:

2 1. Respondent shall transfer J.E.L.R. into Petitioner's custody in the lobby of the U.S.

3 District Courthouse, located at 700 Stewart Street in Seattle, Washington, by no later  
4 than 3:00 pm PT on March 29, 2022.

5 a. Respondent shall ensure that Petitioner is furnished with everything J.E.L.R.  
6 would need to be comfortable and properly cared for during his return to  
7 Mexico (e.g. car seat, sufficient clothing, hygiene supplies, medication,  
8 special toys/entertainment items, etc.).

9 Except as modified above, the Court's prior Order remains in effect. If either Respondent  
10 fails to transfer physical custody of J.E.L.R. per the terms of this Order, opposing party shall  
11 inform the Court by calling Judge Lin's chambers at (206) 370-8750 as soon as practicable, so  
12 the Court can take any necessary steps to enforce compliance with this Order and protect the  
13 well-being of the child.

14 IT IS SO ORDERED.

15 Dated this 29th day of March 2022.

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17 Tana Lin  
18 United States District Judge  
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